

EDMUND G. BROWN JR.
Attorney General of the State of California
DANE R. GILLETTE
Chief Assistant Attorney General
GERALD A. ENGLER
Senior Assistant Attorney General
PEGGY S. RUFFRA
Supervising Deputy Attorney General
MICHELE J. SWANSON, State Bar No. 191193
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5703
Fax: (415) 703-1234
Email: Michele.Swanson@doj.ca.gov

Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MARIO MERINO,

Petitioner,

v.

**MICHAEL MARTEL, Warden, Mule Creek State
Prison,**

Respondent.

C 08-3231 CW

**MOTION TO ENLARGE
TIME TO FILE RESPONSE
TO PETITION FOR WRIT OF
HABEAS CORPUS**

Pursuant to Civil L.R. 6-3 and Habeas L.R. 2254-6, respondent hereby requests a 60-day extension of time, until October 14, 2008, in which to file a response to the petition for writ of habeas corpus. Good cause for the extension is set forth in the accompanying declaration of counsel. We have not attempted to contact petitioner about this extension of time because he is an incarcerated state prisoner who is representing himself. *See* 8/5/08 Order Granting Substitution of Attorney.

WHEREFORE, respondent respectfully requests that this Court grant an extension of time to and including October 14, 2008, in which to file an answer or other responsive pleading.

1 Dated: August 14, 2008

2 Respectfully submitted,

3 EDMUND G. BROWN JR.
Attorney General of the State of California

4 DANE R. GILLETTE
Chief Assistant Attorney General

5 GERALD A. ENGLER
Senior Assistant Attorney General

6 PEGGY S. RUFFRA
Supervising Deputy Attorney General

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8
9 /s/ Michele J. Swanson
10 MICHELE J. SWANSON
Deputy Attorney General
11 Attorneys for Respondent
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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Merino v. Martel, Warden**

No.: **C 08-3231 CW**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 14, 2008, I served the attached

MOTION TO ENLARGE TIME TO FILE RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

DECLARATION OF COUNSEL IN SUPPORT OF MOTION TO ENLARGE TIME TO FILE RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

[PROPOSED] ORDER

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Mario Merino
V-54572
Mule Creek State Prison
B-8-242U
P.O. Box 409040
Ione, CA 94560

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 14, 2008, at San Francisco, California.

M. Argarin
Declarant

/s/ M. Argarin
Signature

EDMUND G. BROWN JR.
Attorney General of the State of California
DANE R. GILLETTE
Chief Assistant Attorney General
GERALD A. ENGLER
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PEGGY S. RUFFRA
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Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
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Telephone: (415) 703-5703
Fax: (415) 703-1234
Email: Michele.Swanson@doj.ca.gov

Attorneys for Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MARIO MERINO,

Petitioner,

v.

**MICHAEL MARTEL, Warden, Mule Creek State
Prison,**

Respondent.

C 08-3231 CW

**DECLARATION OF
COUNSEL IN SUPPORT OF
MOTION TO ENLARGE
TIME TO FILE RESPONSE
TO PETITION FOR WRIT OF
HABEAS CORPUS**

I, MICHELE J. SWANSON, declare under penalty of perjury as follows:

I am a Deputy Attorney General for the State of California and am assigned to represent respondent in this case. Respondent's answer or other responsive pleading is due August 14, 2008, pursuant to this Court's July 15, 2008 Order to Show Cause. I am unable to meet this deadline, and request an enlargement of time to file a response to the petition for writ of habeas corpus for the following reasons.

I was not the attorney who briefed this case on direct review in state court. Since having this case assigned to me, I have been working on cases with chronological precedence,

1 and in the past 30 days, I have filed answers in *Wash v. Runnels*, C 04-04207 JW and *Haney v.*
2 *Adams*, C 07-4682 CRB (PR), a motion to dismiss in *Givens v. Martel*, C 07-1448 MHP (PR),
3 and reply briefs in *Parnell v. Evans*, C 05-4324 SBA (PR), *Weisner v. Evans*, C 07-5509 SI (PR),
4 and *Grecu v. Evans*, C 07-0780 JF (PR). For these reasons, I am unable to file the response in
5 this case by the current deadline.

6 I have not attempted to contact petitioner about this extension of time because he is an
7 incarcerated state prisoner who is representing himself. *See* 8/5/08 Order Granting Substitution
8 of Attorney.

9 Accordingly, I request that the Court grant respondent an extension of 60 days, to and
10 including October 14, 2008, in which to file a response to the petition.

11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed at San Francisco, California, on August 14, 2008.

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14 /s/ Michele J. Swanson
15 MICHELE J. SWANSON
16 Deputy Attorney General

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 **MARIO MERINO,**

Petitioner,

C 08-3231 CW

[PROPOSED] ORDER

12
13 v.

14 **MICHAEL MARTEL, Warden, Mule Creek State**
15 **Prison,**

16 Respondent.
17

18 GOOD CAUSE APPEARING, it is hereby ordered that respondent shall file with the
19 Court and serve on petitioner, on or before **October 14, 2008**, an answer or other response to the
20 petition for writ of habeas corpus.

21 IT IS SO ORDERED.
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23 Dated: _____

The Honorable Claudia Wilken
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